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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,110	11/03/2003	Jerome J. Boogaard	MH1.237	5139
23893	7590	02/22/2006	EXAMINER	
TIMOTHY E SIEGEL 1868 KNAPPS ALLEY SUITE 206 WEST LINN, OR 97068			BERTRAM, ERIC D	
			ART UNIT	PAPER NUMBER
			3766	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/700,110

Applicant(s)

BOOGAARD ET AL.

Examiner

Eric D. Bertram

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 2/23/2004 was filed in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 recites the limitation "ring around a substantial portion of said circumference" in lines 31 and 32. There is insufficient antecedent basis for this limitation in the claim due to the fact that claim 2, on which claim 4 depends, merely states that the wire is merely wrapped *about* (emphasis added) the cable portion. Further, claim 2 does not recite the limitation of a circumference of the conductive ring.
4. Since claim 5 depends from claim 4, it is indefinite by its association.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1, 2, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Iwaszkiewicz et al. (US 4,590,950). Iwaszkiewicz et al. disclose a method and assembly for an electrical stimulus cable comprising a cable portion as shown in figure 2. Within the cable are a plurality of wires 19 and 21 set into a length of insulative material 14. As shown in figures 2 and 3, two portions of the insulative material is removed to create apertures 14a, 14b, which provide access to conductive wire 19. second conductive wire 20 is then electrically connected to wire 19 through both apertures. As shown in figure 2, second conductive wire 20 wraps about the insulative material. Finally, ring electrode 11 is placed onto the cable portion, electrically connecting the second conductive wires to the ring (Col. 3, line 53 –Col. 4, line 28).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 3 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Iwaszkiewicz et al. in view of Mueller (US 5,514,172). Iwaszkiewicz et al., as described above, disclose the applicant's basic invention with the exception of the second conductive wire being wrapped around the cable prior to being connected with the ring electrode. Attention is directed to the secondary reference of Mueller, which in figure 4, shows wire 114 wrapped about the cable portion and connected along the length of the wrapping to a substantial portion of the circumference of ring electrode 38. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the method of Iwaszkiewicz et al. by wrapping the wire around the cable prior to adding the ring electrode in order to create a secure electrical connection (Col. 4, lines 7-9).

11. Claims 4-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwaszkiewicz et al. in view of Doan (6,505,401). As described above, Iwaszkiewicz

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et al. disclose the applicant's basic invention with the exception of using welds, specifically laser welds, in places of electrical connections. Attention is directed to the secondary reference of Doan, who describes an electrical connection maintained by the use of welding, preferably by laser welding (see abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the method of Iwaszkiewicz et al. by welding or laser welding at electrical connection points in order to provide a permanent electrical connection (Col. 2, lines 40-42).

12. Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iwaszkiewicz et al. in view of Osypka (US 5,251,643).). As described above, Iwaszkiewicz et al. disclose the applicant's basic invention with the exception of soldering at places of electrical connections. Attention is directed to the secondary reference of Osypka, who describes using solder to electrically connect wire at various points (Col. 6, lines 42-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the method of Iwaszkiewicz et al. by soldering at electrical connection points in order to prevent electrical separation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D. Bertram whose telephone number is 571-272-3446. The examiner can normally be reached on Monday-Thursday and every other Friday from 8-5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3766

Eric D. Bertram
Examiner
Art Unit 3766

EDB